

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TIMOTHY KING, *et.al.*,
Plaintiffs,

Case No. 20-cv-13134
Hon. Linda V. Parker

v.

GRETCHEN WHITMER, in her official capacity
as Governor of the State of Michigan, *et.al.*,
Defendants,

and

ROBERT DAVIS,
Intervenor Defendant.

GREGORY J. ROHL (P39185)
The Law Offices of Gregory Rohl
41850 West 11 Mile Rd., Ste.110
Novi, MI 48375
(248) 380-9404
gregoryrohl@yahoo.com

HEATHER S. MEINGAST (P55439)
ERIC GRILL (P64713)
Assistant Attorneys General
Attorneys for Defendants
P.O. Box 30736
Lansing, MI 48909
(517) 335-7659
meingasth@michigan.gov
grille@michigan.gov

ANDREW A. PATERSON (P18690)
Attorney for Proposed Intervening
Defendant Robert Davis
2893 E. Eisenhower Pkwy
Ann Arbor, MI 48108
(248) 568-9712
Aap43@outlook.com

**INTERVENOR DEFENDANT ROBERT DAVIS' EMERGENCY
MOTION TO STRIKE PLAINTIFFS' MOTION FOR EXTENSION
OF TIME TO FILE RESPONSE (ECF NO. 74).**

NOW COMES, INTERVENOR DEFENDANT ROBERT DAVIS (hereinafter “Intervenor Defendant Davis”), by and through his attorney, ANDREW A. PATERSON, and for his Emergency Motion to Strike Plaintiffs’ Motion for Extension of Time To File Response (ECF No. 74), states the following:

I. Concurrence

Pursuant to Local Rule 7.1, prior to filing the instant motion, counsel for Intervenor Defendant Davis sought concurrence from Plaintiffs’ counsel, but concurrence was denied, necessitating the filing of this motion.

II. Necessity for Immediate Consideration

It is necessary for the Court to address the merits of Intervenor Defendant Davis’ instant motion on an expedited basis because Plaintiffs’ motion for extension of time (ECF No. 74) was improperly filed because Plaintiffs’ counsel mistakenly selected and identified Intervenor Defendant Davis as being the “filer” of the motion for extension of time (ECF No. 74) when in fact the Plaintiffs are the true “filers” of the motion for extension of time (ECF No. 74) and not Intervenor Defendant Davis.

This error needs to be corrected immediately so that Plaintiffs' counsel can properly refile the motion for extension of time (ECF No. 74).

III. Plaintiffs' Motion for Extension of Time Must Be Stricken And Refiled Correctly Identifying The Proper Filers of the Motion.

On December 22, 2020, Intervenor Defendant Robert Davis filed a motion for sanctions against the Plaintiffs and Plaintiffs' counsel. (ECF No. 69). On January 2, 2021, Plaintiffs' counsel sent Intervenor Defendant Davis' counsel an email seeking concurrence for Plaintiffs' motion for extension of time to file a response to Intervenor Defendant Davis' motion for sanctions (ECF No. 69). (See Email Thread attached as Exhibit A). However, concurrence was denied. (*Id.*)

Accordingly, on January 4, 2021, Plaintiffs' counsel filed a motion for extension of time. (ECF No. 74). However, upon closely reviewing the ECF filing notice, Intervenor Defendant Davis' counsel realized that Plaintiffs' counsel mistakenly selected and identified Intervenor Defendant Davis as the "filer" of said motion. (See ECF Filing for ECF No. 74 attached as Exhibit A). Upon recognizing this apparent error, Intervenor Defendant Davis' counsel immediately contacted Plaintiffs' counsel and requested that the motion be withdrawn and refiled

correctly. (*Id.*) Surprisingly, Plaintiffs’ counsel refused to correct this error and further advised Intervenor Defendant Davis’ counsel that the Clerk’s office had advised Plaintiffs’ counsel that the motion for extension of time (ECF No. 74) was properly filed despite the apparent error that incorrectly lists Intervenor Defendant Davis as the “filer” of the motion. (*Id.*)

Plaintiffs’ filing must be corrected so that the record can accurately reflect the true “filers” of the motion for extension of time (ECF No. 74). Accordingly, Plaintiffs’ motion for extension of time (ECF No. 74) must be STRICKEN and refiled identifying the correct “filers” of the motion.

CONCLUSION

WHEREFORE, for the foregoing reasons, Intervenor Defendant Davis prays that this Honorable Court GRANT his emergency motion to strike Plaintiffs’ motion for extension of time (ECF No. 74) and order Plaintiffs to refile said motion identifying the proper and correct “filers” of the motion.

Dated: January 4, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON
ANDREW A. PATERSON (P18690)
Attorney for Intervenor Defendant
Robert Davis
2893 E. Eisenhower
Ann Arbor, MI 48108
(248) 568-9712

CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that forgoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 4th day of January, 2021, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Dated: January 4, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON
ANDREW A. PATERSON (P18690)
Attorney for Intervenor Defendant
Robert Davis
2893 E. Eisenhower Pkwy
Ann Arbor, MI 48108
(248) 568-9712
aap43@outlook.com

Re: Fw: Motion for Extension of Time to File Response/Reply in 2:20-cv-13134-LVP-RSW King et al v. Whitmer et al

To: Stefanie Lambert <attorneystefanielambert@gmail.com>

From: Drew Paterson

Mon 1/4/2021 2:01 PM

Counsel,

Respectfully, your motion was not properly filed because it lists my client as the "filer" of the motion". Again, my client should not be listed as the "filer" of the motion for extension of time. Rather, your clients should be listed as the filers. Accordingly, I will be proceeding with filing a motion to strike your improperly filed motion and requesting the Court to assess additional sanctions for me having to file this motion since you should simply voluntarily withdraw this improperly filed motion and simply refile it.

Drew Paterson

(248) 568-9712

aap43@outlook.com

From: Stefanie Lambert <attorneystefanielambert@gmail.com>

Sent: Monday, January 4, 2021 1:57 PM

To: Drew Paterson <aap43@outlook.com>

Subject: Re: Fw: Motion for Extension of Time to File Response/Reply in 2:20-cv-13134-LVP-RSW King et al v. Whitmer et al

Counsel,

I spoke with Devon at the Clerk's Office to confirm the motion was properly filed.

Robert Davis is listed because my motion had to be linked to his motion when it was filed.

Best regards,

Stefanie Lambert Junttila

On Mon, Jan 4, 2021 at 1:54 PM Drew Paterson <aap43@outlook.com> wrote:

Counsel,

The motion was NOT filed properly because the filer is listed as my client, Robert Davis. The flier should be listed as your clients and NOT

Mr. Davis. Accordingly, I will be filing an emergency motion to strike the improperly filed motion and will be seeking additional sanctions. Will you concur in the relief requested?

Drew Paterson
(248) 568-9712
aap43@outlook.com

From: Stefanie Lambert <attorneystefanielambert@gmail.com>
Sent: Monday, January 4, 2021 1:51 PM
To: Drew Paterson <aap43@outlook.com>
Subject: Re: Fw: Motion for Extension of Time to File Response/Reply in 2:20-cv-13134-LVP-RSW King et al v. Whitmer et al

Counsel,

As confirmed by the Clerk's Office, the motion was properly filed.

Sincerely,

Stefanie Lambert Junttila

On Mon, Jan 4, 2021 at 12:57 PM Drew Paterson <aap43@outlook.com> wrote:

Counsel,
I am respectfully requesting that your most recent filing be Immediately stricken because you incorrectly filed it as if you were representing my client, But Intervening Defendant Robert Davis.

Drew Paterson
(248) 568-9712
aap43@outlook.com

From: cmecfadmin@mied.uscourts.gov <cmecfadmin@mied.uscourts.gov>
Sent: Sunday, January 3, 2021 10:30 PM
To: do_not_reply@mied.uscourts.gov <do_not_reply@mied.uscourts.gov>
Subject: Motion for Extension of Time to File Response/Reply in 2:20-cv-13134-LVP-RSW King et al v. Whitmer et al

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

Eastern District of Michigan

Notice of Electronic Filing

The following transaction was entered by Junttila, Stefanie on 1/3/2021 at 10:30 PM EST and filed on 1/3/2021

Case Name: King et al v. Whitmer et al

Case Number: [2:20-cv-13134-LVP-RSW](#)

Filer: Robert Davis

Document Number: [74](#)

Docket Text:

**MOTION for Extension of Time to File Response/Reply as to [69] MOTION for Sanctions *against Plaintiffs and Plaintiffs' counsel* by Robert Davis.
(Attachments: # (1) Exhibit Exhibit 1) (Junttila, Stefanie)**

2:20-cv-13134-LVP-RSW Notice has been electronically mailed to:

Andrew A. Paterson , Jr aap43@hotmail.com

Daniel M. Share dshare@bsdd.com, jmichaels@bsdd.com

Darryl Bressack dbressack@finkbressack.com, ggayer@finkbressack.com,
khunt@finkbressack.com

David H. Fink dfink@finkbressack.com, ggayer@finkbressack.com,
jmack@finkbressack.com, khunt@finkbressack.com

Erik A. Grill grille@michigan.gov, albrol@michigan.gov, richardsm1@michigan.gov,
StOngeN@michigan.gov

Eugene Driker edriker@bsdd.com, ssimkins@bsdd.com

Ezra D Rosenberg erosenberg@lawyerscommittee.org

Gregory J. Rohl gregoryrohl@yahoo.com

Heather S. Meingast meingasth@michigan.gov, albrol@michigan.gov,
richardsm1@michigan.gov

Jon Greenbaum jgreenbaum@lawyerscommittee.org, jon-greenbaum-5373@ecf.pacerpro.com

Julie M Houk jhouk@lawyerscommittee.org

Mary Ellen Gurewitz megurewitz@gmail.com, rcunningham@michlabor.legal

Nathan J. Fink nfink@finkbressack.com, ggayer@finkbressack.com,
jmack@finkbressack.com, khunt@finkbressack.com

Scott R. Eldridge eldridge@millercanfield.com, yoak@millercanfield.com

Stefanie Lynn Junttila attorneystefanielambert@gmail.com

Stephen E. Glazek sglazek@bsdd.com, STaylor@bsdd.com

2:20-cv-13134-LVP-RSW Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1047317467 [Date=1/3/2021] [FileNumber=10153504-0]
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5f748acb2766312cdbfddc576515499997d8c072b72417b33763a9dd60be7]]

Document description:Exhibit Exhibit 1

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1047317467 [Date=1/3/2021] [FileNumber=10153504-1]
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